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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,258	07/11/2003	Jason R. Kirsch	DFP 2003-I	7048
26874	7590	08/18/2005	EXAMINER	
FROST BROWN TODD, LLC 2200 PNC CENTER 201 E. FIFTH STREET CINCINNATI, OH 45202			SHARMA, RASHMI K	
		ART UNIT		PAPER NUMBER
		3651		

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/619,258	KIRSCH, JASON R.
	Examiner Rashmi K. Sharma	Art Unit 3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 May 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-14, 19, 22 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 2-5 and 24-34 is/are allowed.
- 6) Claim(s) 6-14, 19 and 22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 July 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/9/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stewart et al. (U.S. Patent number 5,964,566).

Stewart et al. disclose a particulate unloading system including a rigid platform (16) resting on the surface of the ground in an operational unloading position for supporting a particulate material transporting vehicle (10) where the longitudinal axis of the platform (16) coincides with the direction of travel of a motive power source (read column 3 lines 41-44) when the motive power source is moving in a straight line, the platform (16) being pivotally attached to the motive power source for moving the particulate material unloading system from one location to another, the platform (16) being capable of receiving particulate material discharged from the particulate material transporting vehicle (10), a main particulate material conveyance device (18) pivotally attached to the platform (16) such that a longitudinal axis of the main particulate material conveyance device (18) is substantially aligned with the longitudinal axis of the platform (16), the main particulate material conveyor device (18) being capable of delivering the

particulate material to a holding bin (column 9 lines 30-33), and at least one secondary particulate material conveyance device (194 or 180) for transferring the particulate material received by the platform (16) to the main particulate material conveyance device (18), such that the platform (16) remains connected to the motive power source and the main particulate material conveyance device (18) during unloading and also when moving the particulate material unloading system from one area to another. Stewart et al. also discloses the platform (16) having upper, lower and side surfaces for receiving and containing the particulate material (see Figure 2), the platform having a semi-open upper surface allowing the particulate material to flow into the platform (16) and into the secondary material conveyance device (194 or 180) and wherein the platform (16) has foldable ramps (12) on both sides of the platform to reduce its transporting dimensions.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 13, 14, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. (U.S. Patent number 5,964,566) in view of Hundeby (CA Patent Application 2,360,474).

Stewart et al. as disclosed above, fails to show a steel platform, screw conveyors for the main and secondary particulate material conveyance device, the motive power source providing power to the main and secondary conveyance devices and wherein the motive power source provides power required to transport the particulate material unloading system from one location to another and operates both the main and secondary material conveyance devices.

Hundeby does disclose screw conveyors (see Figures 3 and 7) for the main and secondary particulate material conveyance devices, the motive power source providing power to the main and secondary conveyance devices wherein the motive power source provides power required to transport the particulate material unloading system from one location to another and operates both the main and secondary material conveyance devices (read the Summary and the last 3 paragraphs on page 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the PTO of Hundeby's invention to that of Stewart et al.'s invention in order to provide for a more continuously maneuverable particulate unloading system allowing the unloading system to be completely controlled by an operator seated in the motive power source.

It also would have been obvious to one having ordinary skill in the art at the time the invention was made to provide for a steel platform as they are well known in the art and would also be a matter of design choice.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stewart et al. (U.S. Patent number 5,964,566) in view of Mast et al. (U.S. 2003/0170102 A1).

Stewart et al. as disclosed above, fails to show foldable ramps that are moved by hydraulics.

Mast et al. does disclose ramps that are moved and folded by hydraulics.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the drive movement of Stewart's ramps with the hydraulic system of Mast's invention, as the hydraulic system allows the operator to be stationary while the ramps fold and unfold. Both systems are also considered to be functionally equivalent and one having ordinary skill in the art would be reasonably apprised in utilizing either system.

Allowable Subject Matter

Claims 2-5 and 24-34 have been allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Reasons for allowing independent claim 2 has been set forth in the previous Office Action.

New independent claim 25 recites the structural limitation of a particulate material unloading apparatus adapted for attachment to an agricultural tractor for movement in an operating travel direction and for driving the apparatus comprising a driveline adapted at a front end thereof for connection to a power takeoff of the agricultural tractor and extending through the platform to drive the transfer means and main conveyor where in operation the main conveyor is maneuvered into a location as desired to discharge particulate material, a front end of the hitch is moved up and the at least one retractable transport wheel is moved up to lower the platform to rest on the ground, in combination with the rest of the recited structure, clearly defines over the prior art.

Response to Arguments

All arguments corresponding to the Mast et al. reference (U.S. 2003/0170102 A1) are persuasive.

Applicant's arguments with respect to claims 6-14, 19 and 22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

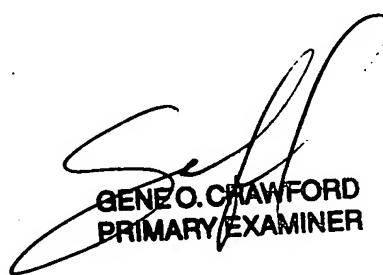
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

Art Unit: 3651

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rks



GENE O. CRAWFORD
PRIMARY EXAMINER